

## REMARKS

Claims 1-10 are pending in the instant application and Claims 1-5, 7, 9 and 10 stand finally rejected. Applicants appreciate the indication that Claims 6 and 8 contain allowable subject matter. Claims 1 and 5 have been amended, and new Claims 11 and 12 are submitted for consideration by the Examiner. Applicants respectfully request entry of this Amendment, and reconsideration and allowance of the instant application.

The rejection of Claims 1-5 and 7 under 35 U.S.C. 102(b) as being anticipated by Hayashi et al. (U.S.P.N. 5529720), is respectfully traversed.

Hayashi fails to disclose an annealed indium tin oxide having the claimed color characteristics. As illustrated by Hayashi's Examples 10, 14 and 15, Hayashi's material changes color after annealing and after annealing his material fails to anticipate Claims 1-5 and 7 (e.g., see Col 17, Lines 52-57 of Hayashi). It is noted that Claim 5 has been amended to include the limitations of Claim 6. Applicants, therefore, respectfully submit that Hayashi cannot anticipate each and every aspect of the claimed invention and request withdrawal of this rejection.

The rejection of Claims 1-5 and 7 under 35 U.S.C. 102(b) as anticipated by Nishihara et al. (U.S.P.N. 5518810), is respectfully traversed.

Nishihara fails to disclose an infra-red absorbing composition having the claimed color characteristics. As illustrated by Nishihara's Examples 12-17, his material is unable to absorb infra-red radiation (e.g., see Col. 13, Lines 54-61 of Nishihara). It is noted that Claim 5 has been amended to include the limitations of Claim 6. Applicants, therefore, respectfully submit that Nishihara cannot anticipate each and every aspect of the claimed invention and request withdrawal of this rejection.

The rejection of Claims 9 and 10 under 35 U.S.C. 103(a) as being unpatentable over Hayashi in view of Lee et al. (USPN 6881357), is respectfully traversed.

Hayashi contains the previously described deficiencies. Such deficiencies are not overcome by Lee. Lee also fails to disclose the inventive ITO particles. Accordingly, assuming *arguendo* that Hayashi and Lee are combinable, the combination cannot establish a *prima facie* case of obviousness. Applicants respectfully request withdrawal of this rejection.

The rejection of Claims 9 and 10 under 35 U.S.C. 103(a) as being unpatentable over Nishihara in view of Lee et al. (USPN 6881357), is respectfully traversed.

Nishihara contains the previously described deficiencies. Such deficiencies are not overcome by Lee. Lee also fails to disclose the inventive ITO particles. Accordingly, assuming *arguendo* that Hayashi and Lee are combinable, the combination cannot establish a *prima facie* case of obviousness. Applicants respectfully request withdrawal of this rejection.

With respect to the product by process claim limitations, it is noted that neither Hayashi nor Nishihara employ an atmospheric process and forming gas.

Applicants respectfully submit that the pending claims define patentable subject matter and request issuance of a Notice of Allowability. Please find attached hereto an RCE Transmittal. Should there be any fee due in connection with this Application, please charge the same to Deposit Account No. 01-0493 (Air Products). Should the Examiner deem that any action on the part of

Applicants would advance prosecution, the Examiner is invited to telephone Applicants' attorney.

Respectfully Submitted,

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Encl.: RCE Transmittal